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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,593	03/30/2004	Paul Hensley	10075 (MCPT002 CIPCON)	4390
54698 7590 02/27/2008 RAYMOND R. MOSER JR., ESQ. MOSER IP LAW GROUP 1030 BROAD STREET 2ND FLOOR SHREWSBURY, NJ 07702				
EXAMINER NGO, HUNG V				
ART UNIT 2831		PAPER NUMBER		
MAIL DATE 02/27/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/813,593

**Applicant(s)**

HENSLEY ET AL.

**Examiner**

Hung V. Ngo

**Art Unit**

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 08-23-04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-9 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-9 of prior U.S. Patent No. 6,724,608. This is a double patenting rejection.

Pat No 6,724,608 disclose

1. A method for electrically charging a probe, cannula, pin tool or other similar component or plurality of such components made of any material of a fluid dispensing device used to pipet small volumes of fluids by plasma technology comprising the following steps: placing such probe, cannula, pin tool or other similar component or plurality of such components to be charged in a space that plasma is generated by a plasma generating device; applying electromagnetic energy to the plasma generating device, thereby molecularly disassociating the gas, thus creating charged ions, free electrons, and free radicals, and charging the surface by the charged ions and free radicals attaching to the probe, cannula, pin tool or other similar component or plurality of such components; removing the charged probe, cannula, pin tool or other similar component or plurality of such components from the area of plasma generation, whereby the charged probe, cannula, pin tool or other similar component or plurality of such components can pipette compounds in small volumes.

2. A method for electrically charging a probe, cannula, pin tool or other

similar component or plurality of such components made of any material of a fluid dispensing device used to pipet small volumes of fluids by plasma technology comprising the following steps: placing such probe, cannula, pin tool or other similar component or plurality of such components to be charged within in a space that plasma is generated by a plasma generating device; using the plasma generating device to introduce a gas mixture of oxygen and a carrier gas into the plasma; and applying electromagnetic energy to the gas mixture, thereby causing a breakdown of the Oxygen (O.sub.2) molecules into O Ions, free electrons, and free radicals; (i.e., the plasma), thereby causing the ions and free radicals to attack and attach to the probe, cannula, pin tool or other similar component or plurality of such components, thereby imparting a charge to the surface. removing the charged probe, cannula, pin tool or other similar component or plurality of such components from the area of plasma generation, whereby the charged probe, cannula, pin tool or other similar component or plurality of such components can pipette compounds in small volumes.

3. The method of claim 2 wherein the carrier gas is argon.

4. A method for electrically charging a probe, cannula, pin tool or other similar component or plurality of such components made of any material of a fluid dispensing device and coated with one or more additional materials or treatments used to pipet small volumes of fluids by plasma technology comprising the following steps: placing such coated probe, cannula, pin tool or other similar component or plurality of such components with a physical coating or permanent surface treatment to be charged in a space that plasma is generated by a plasma generating device; applying electromagnetic energy to the plasma generating device, thereby molecularly disassociating the gas, thus creating charged ions, free electrons, and free radicals, and charging the surface by the charged ions and free radicals attaching to the probe, cannula, pin tool or other similar component or plurality of such components; removing the charged probe, cannula, pin tool or other similar component or plurality of such components from the area of plasma generation, whereby the charged probe, cannula, pin tool or other similar component or plurality of such components can pipette compounds in small volumes.

5. The methods of claims 1 for electrically charging a probe, cannula, pin tool or other similar component or plurality of such components made of any

material of a fluid dispensing device used to pipet small volumes of fluids by plasma technology comprising the following steps: placing such probe, cannula, pin tool or other similar component or plurality of such components to be charged in a space that plasma is generated by a plasma generating device; applying electromagnetic energy to the plasma generating device, thereby molecularly disassociating the gas, thus creating charged ions, free electrons, and free radicals, and charging the probe by the charged ions and free radicals attaching to the probe, cannula, pin tool or other similar component or plurality of such components; using the fluid dispensing device to create a backpressure or vacuum within the probe, cannula or other similar component or plurality of such components and pulling the plasma into the interior space of the probe, cannula or other similar component or plurality of such components; using the fluid handling device to create a positive pressure within the probe, cannula or other similar component or plurality of such components to expel the plasma from the interior space of the probe, cannula or other similar component or plurality of such components; repeating the prior two steps, as desired; removing the charged component from the area of plasma generation, whereby the charged probe, cannula or other similar component or plurality of such components can pipette compounds in small volumes.

6. A method for electrically charging the surfaces of a fluid containing device, such as, but not limited to, a tube or microplate made of any material, with one or a plurality of containment wells or fluid processing surface, made of any material including but not limited to plastic, composite, glass or silicon, by plasma technology for use in manipulating small volumes of fluids comprising the following steps: placing such container, having a tube like structure or wells for containing such fluid or a surface to place drops of fluids into a position so as to be exposed appropriately to the plasma; applying electromagnetic energy to the plasma generating device, thereby molecularly disassociating the gas, thus creating charged ions, free electrons, and free radicals, and charging the probe by the charged ions and free radicals attaching to the surfaces to be treated; moving or leaving in place the containing device or surface for the dispensing of small volumes of fluid, or removing or leaving in place the containing device or surface without further processing.

7. The method in claim 6 using a gas mixture of oxygen and a carrier gas.

8. The method in claim 6 using with the carrier gas argon.

9. The method in claim 6 with the plasma charge being applied on a one or more coating materials or treatments on the containment device or surface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung V. Ngo whose telephone number is (571) 272-1979. The examiner can normally be reached on Monday to Friday 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2800 EXT 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hung V Ngo/  
Primary Examiner, Art Unit 2831

